

**Johnson, Kelsi (ATG)**

---

**From:** ATG MI CFU Matters  
**To:** Dalton, Linda A. (ATG)  
**Subject:** RE: Complaint Attached

**From:** Peter Starzynski [<mailto:peter@nwaccountabilityproject.com>]  
**Sent:** Tuesday, January 10, 2017 7:45 PM  
**To:** Dalton, Linda A. (ATG); Smith, Walter (ATG)  
**Subject:** Complaint Attached

Dear Ms. Dalton and Mr. Smith,

On behalf of Andrew Biviano, please find attached a cover letter and complaint to bring your attention to an apparent violations of RCW 42.17A by the Evergreen Freedom Foundation d/b/a the Freedom Foundation.

We are happy to answer any questions you may have.

Sincerely,

--

Peter Starzynski  
Executive Director  
Northwest Accountability Project



Mr. Bob Ferguson  
Attorney General, State of Washington  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100

January 6, 2017

Mr. Jon Tunheim  
Thurston County Prosecuting Attorney  
2000 Lakeridge Dr. S.W.  
Building 2  
Olympia, WA 98502

Re: Notice of Violations of RCW 42.17A

Dear Mr. Ferguson and Mr. Tunheim:

This letter and the attached complaint are being submitted by our organization to bring your attention to the apparent violations of RCW 42.17A by the Evergreen Freedom Foundation, d/b/a the Freedom Foundation. The violations alleged in this complaint are evidenced by the attachments included and provide reason to believe the Freedom Foundation disregarded several provisions of 42.17A with respect to their activities leading up to the general election in November 2016. Please consider this letter our 45-day notice pursuant to RCW 42.17A.765(4).

By filing this complaint I certify under penalty of perjury under the laws of the State of Washington that information provided within this complaint is true and correct to the best of my knowledge and belief. In the attached complaint, we have described the allegations and attached evidence to support the claims made in this complaint.

Thank you for your prompt attention to this matter,

A handwritten signature in cursive script that reads "Andrew Biviano".

Andrew Biviano  
Founding Member  
Northwest Accountability Project  
509-309-8071  
info@nwaccountabilityproject.com

## COMPLAINT

This complaint is filed by the Northwest Accountability Project against the Evergreen Freedom Foundation (“Freedom Foundation” or “Respondent”). It is based on the Freedom Foundation’s failure to register as a political committee as well as its failure to report its expenditures regarding Initiative 1, an Olympia, Washington ballot measure pertaining to the adoption of an income tax to fund a college grant program in that city.

**RESPONDENT:** The Evergreen Freedom Foundation, [www.freedomfoundation.com](http://www.freedomfoundation.com). Mailing address: P.O. Box 552, Olympia, WA 98507.

**ALLEGED VIOLATIONS:** Respondent solicited funds and made expenditures for the purpose of engaging in activities and public communications opposing Initiative 1, a measure that appeared on the November 8, 2016 ballot to establish a college grant program in Olympia Washington, to be funded by an income tax.<sup>1</sup>

Respondent funded its activities and public communications in opposition to Initiative 1 without registering a political committee and without filing any disclosure reports. This failure to register and failure to report are both in violation of Washington law. Further, given that Respondent has committed similar reporting violations in a recent ballot initiative campaign, the violations concerning Initiative 1 are appropriate for referral to the Attorney General.<sup>2</sup>

### ANALYSIS OF STATUTORY AND REGULATORY PROVISIONS:

#### **I. The Freedom Foundation failed to register as a political committee and to file disclosure reports as required by Washington law.**

The Freedom Foundation’s activities and communications in opposition to Initiative 1 required it to register as a political committee. Under Washington law, political committee status applies to “... any person ... having the expectation of receiving contributions...in support of, or opposition to ... any ballot proposition.” An entity that meets the definition of “political committee” must file a statement of organization no later than two weeks after the date the committee first has the expectation of receiving contributions. RCW 42.17A.005(37), 42.17A.205. The Washington Public Disclosure Commission (“PDC”) has interpreted this requirement and provided an analysis of case law dealing with this definition in PDC Interpretation No. 07-02, quoting the holding in *State ex rel. Evergreen Freedom Found. v. Washington Educ. Ass'n*, 49 P.3d 894, 902-03 (2002):

---

<sup>1</sup> The initiative was voted on and rejected in that election.

<sup>2</sup> The Freedom Foundation has been put on notice that disclosure is required since the Attorney General has filed suit against the organization based on its failure to file Form C-6 reports to disclose its expenditures in opposition to I-1501 and the Public Disclosure Commission has issued a determination that those reports were required. *State of Washington v. Evergreen Freedom Foundation*, PDC Report of Investigation In Re Compliance with RCW 42.17A, Freedom Foundation, Respondent, PDC Case Number 8336 (Oct 12, 2016).

The Act sets forth two alternative prongs under which an individual or organization may become a political committee and subject to the Act's reporting requirements.... [A] person or organization may become a political committee by either (1) expecting to receive or receiving contributions, or (2) expecting to make or making expenditures to further electoral political goals.

This Interpretation clearly establishes that political committee status is triggered solely by contribution solicitation, which is equivalent to “expecting to receive” contributions.<sup>3</sup> There is evidence that the Freedom Foundation specifically solicited funds to oppose Initiative 1. Mr. Tom McCabe, CEO of the Freedom Foundation, sent out a letter soliciting contributions to oppose Initiative 1, as is shown by his August 19, 2016 fundraising letter stating:

Right now, we're locked in a crucial fight right here in our hometown – and we need you on our team if we're to prevail! ... If Olympia adopts an income tax,...then the rest of the state will follow....Your gift today of \$5,000, \$1,000, \$500, \$250, \$100 or whatever you can afford will greatly help the Freedom Foundation as we make our stand against those who would saddle Washington with an income tax... P.P.S. Your donation today can prevent a statewide income tax tomorrow. Please give as generously as you can. We will fight the imposition of an income tax tooth and nail – and with you on our team, we will prevail. (See Attachment 1.)

As McCabe states, the Freedom Foundation was “out there from the very beginning to make the case to stop the Olympia income tax,” *Id.* at 4, and continued to “mobilize conservatives in the area” and kept “educating the public about this crucial issue,” *Id.* at 5. It was in furtherance of these efforts that McCabe makes his pitch to contributors: “And with your continued help, we won't. We can stop this monstrosity known as a state income tax.” *Id.* at 7. He calls for contributions and makes clear that the money raised will be used to oppose Initiative 1, an Olympia ballot proposition.

It is clear from reviewing this letter both in part, and in its entirety, that the funds being solicited by McCabe are clearly being solicited to fund expenditures in opposition to Initiative 1. Based on the above solicitation, the Freedom Foundation met the legal standard for triggering political committee status under Washington law and as such should have registered by filing a statement of organization with Washington Public Disclosure Commission. RCW 42.17A.005(37), 42.17A.205.

---

<sup>3</sup> Note that in the *Evergreen* case, the Court interpreted the expenditure prong of the political committee definition at RCW 42.17A.005(37) as applying only to organizations whose primary purpose is to influence elections. This primary purpose test applies solely to the expenditure prong of the statutory definition and does not apply to the contribution prong of that definition. The practical implication of this interpretation is to establish that for profit corporations that make political contributions are not required to register as a political committee because their primary purpose is not electoral activity. Thus, as is permissible in Washington, a for-profit corporation could make a contribution to a PAC, but not be required to register because the primary purpose of that corporation is to market services or products and make a profit. However, entities that solicit and raise contributions for electoral activity immediately trigger political committee status.



**II. Even if the PDC does not determine that the Freedom Foundation is a political committee, the organization was required under RCW 42.17A.255 to file Form C-6 to report its expenditures.**

Under RCW 42.17A.255, all independent expenditures regarding Washington ballot initiatives, whether at the municipal or statewide level, made by persons other than political committees must be reported if those expenditures have an aggregate value of \$100 or more. This section defines “independent expenditure” to include any expenditure that is made in support of or in opposition to a “ballot proposition” and that is not otherwise subject to political committee reporting. This regulation clearly applies to any expenditures regarding Initiative 1, as the term “ballot proposition” includes any initiative proposed to be submitted to the voters of the state or any political subdivision, including a municipal corporation. RCW 42.17A.005(4).

The PDC has interpreted RCW 42.17A.255 as broadly requiring reporting of all independent expenditures, concluding that reporting under that provision is triggered by a reportable expenditure in support of or opposition to a ballot proposition with an aggregate value of \$100 or more. The PDC’s conclusions are set forth in a recent report relating to an investigation of the Freedom Foundation for failure to comply with Washington disclosure laws relating to its activities and communications to defeat another initiative, I-1501, a statewide measure that was adopted in the November 2016 election and increases penalties for identity theft and consumer fraud against seniors and other vulnerable citizens. The PDC determined that the reporting requirements of RCW 42.17A.255 are governed by the statutory provision’s own definition of independent expenditure, stating:

It requires only that a reportable expenditure be made in support of or in opposition to any candidate or ballot proposition, have an aggregate value of at least \$100 and not fall under reporting requirements for candidates or political committees. Accordingly, an expenditure reportable under RCW 42.17A.255 could consist of an independently sponsored mass communication expressly advocating the election or defeat of a candidate (political advertising), but it could also consist of a payment for activity that lacks expressive content e.g. paid distribution of campaign information by canvassers. PDC Report of Investigation In Re Compliance with RCW 42.17A, Freedom Foundation, Respondent, PDC Case Number 8336, at 5 (Oct 12, 2016).

In its report, the PDC concluded that the Form C-6 reporting encompassed a wide spectrum of expenditures that clearly expressed the Freedom Foundation’s opposition to I-1501. The PDC determined that the paid time of staffers writing and producing communications opposing the initiative as well as amounts spent by the organization to finance appearances before, or meetings with, an editorial board of news outlets in opposition to the Initiative could be subject to C-6 disclosure. PDC Report of Investigation In Re Compliance with RCW 42.17A, Freedom Foundation, Respondent, PDC Case Number 8336, at 5-6 (Oct 12, 2016). Accordingly, similar expenditures made by the Freedom Foundation in opposition to Initiative 1 should also be reviewed to determine if they were otherwise reportable under Washington law.

### **III. Evidence Demonstrating Expenditures.**

The following evidence of activities and communications by the Freedom Foundation clearly demonstrate that significant expenditures were made in opposition to Initiative 1 by the organization. These expenditures were reportable either as political committee expenditures or as expenditures reportable on Form C-6.

#### **1. Campaign to Generate Opposition to Initiative 1**

Complainants have obtained a copy of a July 11, 2016 email sent by Jami Lund, Senior Policy Analyst at Freedom Foundation urging an individual to join in testifying against Initiative 1 at the July 12 Olympia City Council meeting. *See* Attachment 2. It is likely that this email was part of a larger campaign by the organization to reach out to the public to generate opposition to Initiative 1. The Freedom Foundation expenditures for paid staffers who worked to generate opposition to Initiative 1 through such communications were reportable, in addition to any other expenditures incurred to further this public outreach and campaign against Initiative 1.

#### **2. Blog Posts, Podcasts, and Related Website and Print Communications**

The Freedom Foundation had an extensive communications and outreach program opposing Initiative 1 including blog posts, podcasts, press releases and other articles on its website and in printed materials. Examples include: a July 14, 2016 posting titled “Olympia Income Tax,” *See* Attachment 3; a press release posted on August 11, 2016, *see* Attachment 4; an August 25, 2016 post titled “Olympia city income tax scheme rejected,” *see* Attachment 5; podcasts discussing the Initiative on May 7, May 21, 2016, and July 16, 2016, *see* Attachments 6, 7, and 8 (audio available on the Freedom Foundation website); and an article recently published in the Freedom Foundation newsletter titled “Election Night Recap,” *See* Attachment 9.

#### **3. Press Outreach and Preparation of Opinion Editorial in The Olympian**

The Freedom Foundation engaged in an active press outreach program, devoting personnel and other resources to seek press coverage of its opposition to Initiative 1. Paid staff engaged in press interviews and briefings, including for example, a piece in *The Olympian* quoting Mr. Lund. *See* Attachment 10.

In another instance, Freedom Foundation policy fellow Amber Gunn submitted an opinion editorial to *The Olympian* newspaper in opposition to Initiative 1. *See* Attachment 11. It is significant to note that Freedom Foundation communications cited in this complaint discuss this editorial as supporting the organization’s campaign to generate opposition to Initiative 1 and use it to buttress its outreach.

#### **4. Extensive Consultation with Olympia City Staff**

Through a Freedom of Information Act request, Complainants obtained a series of email exchanges between Freedom Foundation staff and the City Attorney for Olympia. These emails indicate continued and consistent involvement by the Freedom Foundation in actions related to

the Initiative being placed on the ballot and demonstrate an interest in keeping the Initiative off the ballot or otherwise helping the City to oppose the measure. This is best demonstrated by the words of Freedom Foundation Senior Policy Analyst Jamie Lund: “I’m not an attorney, but in my experience the city could decline to put something on the ballot and let the proponents bring an action. That would be the quickest, most focused effort since it would be over in a matter of months and appeals could be unlikely.” (Attachment 12).

## **5. Testimony before Olympia City Council**

On July 12, Freedom Foundation Senior Policy Analyst Jami Lund testified during the Olympia City Council meeting in opposition to the Initiative. During his testimony, he stated that he represented the Freedom Foundation and that the organization would continue its involvement in the process, including litigation should the measure become law. *See* City Council on 2016-7-12, City of Olympia (July 12, 2016) [http://olympia.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=1567](http://olympia.granicus.com/MediaPlayer.php?view_id=2&clip_id=1567). Accordingly, significant expenditures may have occurred for staff to prepare and present this testimony in opposition to the measure and to monitor and challenge the Initiative’s appearance on the ballot.<sup>4</sup>

### **CONCLUSION:**

The facts included in the above complaint clearly demonstrate that the actions of the Freedom Foundation violated Washington law. The Freedom Foundation solicited and expended funds for the purpose of expressly opposing Initiative 1 without registering as a political committee and without filing any disclosure reports. As such, the PDC should investigate the Freedom Foundation, and it should determine that the organization has, in fact, violated the law.

Thank you for your prompt attention to this matter.

---

<sup>4</sup> The Freedom Foundation prepared and filed an Amicus Curiae Brief in a lawsuit seeking to invalidate Initiative 1, *City of Olympia v. Opportunity for Olympia*, No. 16-2-02998-34 9 (Superior Court of Washington for Thurston County). (Attachment 13). The organization obviously incurred expenses for this brief. The activity was electoral in nature as the purpose of the lawsuit was to remove or otherwise impact the presence of the Initiative on the ballot. While certain types of legal services are exempt from the definition of contribution when provided to a political party or candidate committee, this exemption does not appear to be relevant here. RCW 42.17A.005(13)(b)(viii).

# Attachment 1



Our mission is to advance individual liberty, free enterprise, and limited, accountable government.

[myFreedomFoundation.com](http://myFreedomFoundation.com)

August 19, 2016

Dear [REDACTED]

**Don't feed the bears—they always come back for more.**

That's true in the woods, and it's especially true of the greedy liberals who run Washington state.

For more than 30 years, the Left has run this state, mismanaging it from one budget crisis to the next.

They clearly can't live within their means and keep blaming people like you and me for not paying enough in taxes. In fact, when Christine Gregoire was governor a few years ago, she said the people of our state just needed to be "educated" about why they should want an income tax.

Does she think we're stupid? Government spending in Washington already works out to about \$5,200 per year for every man, woman and child in the state...and she thinks we need to pay even more?

Of course, the people of our great state are smarter than that—and that's why the income tax has been defeated every time it has been proposed in our state.

You'd think the liberals would get the message by now.

Yet the bear is still hungry, and this time it's back with cubs. And if we don't act now, we'll have a mama grizzly-sized problem on our hands before we know it!

My name is Tom McCabe, and I'm president of the Freedom Foundation in Olympia. Founded in 1991, our 5,000 members across the state represent the most potent force for fighting the big government liberals and their dangerous agenda.

**Right now, we're locked in a crucial fight right here in our hometown—and we need you on our team if we're to prevail!**

If you've been following the news, you may have heard that big government liberals have gathered signatures to put a citywide income tax on the November ballot in Olympia.

You may ask, why is a big statewide organization like the Freedom Foundation getting involved with a local-level ballot initiative that affects just one city?

**Because we know the liberals' real strategy: Impose an income tax on the residents of the Olympia first, and then, once that's in place, spread the misery statewide.**

If they were hoping they could get away with this without much fuss or controversy, they were wrong. The Freedom Foundation hates a state income tax as much as we love this magnificent and beautiful state we share.

**We are on this case like the Seahawks defense on a hapless running back.**

This latest campaign to separate you from your money began in April, when Opportunity for Olympia, a ridiculously misnamed, union-funded pressure group circulated petitions in favor of imposing an income tax on any Olympia household with an income in excess of \$200,000.

Do you think they'd use that money to put more cops on our streets or make our neighborhoods safer?

**No, this is all about greedy, big-government liberals taking care of their own.**

In fact, this tax money would go straight into the pockets of teachers' unions under the phony pretext of funding "community college tuition" here in Olympia.

Do you think it's any coincidence that teachers' unions were the single biggest contributor to Gov. Inslee's election campaign a few years ago? This is how the Left keeps itself in power, pushing for new taxes and bigger government staffed by more union members to contribute at election time and begin the cycle all over again.

The income tax has been their Holy Grail since the Washington State Supreme Court ruled it unconstitutional in 1933. Seven times they have tried to enact an income tax since then, and seven times they have been defeated.

Now they're back.

They know that if they can prevail in Olympia, it's only a matter of time until they can expand the size and scope government forever statewide.

That's why our opponents in this fight are so well funded.

In fact, just who was behind this mysterious gang that called itself Opportunity for Olympia? Far and away its biggest benefactor is Nancy Nordhoff, the rich left-wing Seattle funder of Big Government causes. (Just why does a rich lady in Seattle want to tax the incomes of people less fortunate than her in a completely different city, anyway?)

The next largest contributor to Opportunity for Olympia was the Olympia Education Association—the teachers' union. Opportunity? Sure, an opportunity to get their greedy fingers into the wallets and purses of the people of Olympia.

Nothing grows government quite like an income tax—and no one will benefit more from an income tax than the government unions.

City officials flagged the Opportunity for Olympia petition as poorly drawn and probably unconstitutional. So what did these city officials do?

**They turned around and wrote an even more inclusive income tax proposal that would impose an income tax on every household in the city.**

This graduated income tax would raise \$2.5 million annually, or approximately the same amount that Opportunity for Olympia's proposal would have raised.

Olympia Mayor Pro Tempore Nathaniel Jones, a vocal supporter of the city income tax, used as his excuse the fact that in 2010, voters in Olympia had supported the most recent failed attempt to impose a statewide income tax.

"We've got a community that's actually on fire for this issue," Jones bumbled.

We'll see just how "on fire" Olympians are when they realize that Jones's proposal, which will be on November's citywide ballot, would force everyone—not just "the rich"—to send their money to him and his cronies for them to dispose of as they see fit.

Opponents of the proposed Olympia income tax were aghast. “This is not about education and our kids,” said Council member Julie Hankins. “This is about someone else coming into our town with their agenda, which is to challenge the state’s tax system”—and pave the way for a statewide income tax.

The cost of implementing this tax—creating a new city bureaucracy responsible for the collection and enforcement of an Olympia income tax—would be astronomical. It would require an effort that is, well, *Olympian*—and far beyond the administrative capabilities of the current city government.

But that doesn’t concern the income tax crowd. **To them, that’s a minor detail, like choosing between the .22 or the .38 caliber on their way to a home invasion.**

As soon as this taxing proposal materialized in Olympia, the Freedom Foundation, your voice for individual liberty, free enterprise and limited, accountable government in the Pacific Northwest, took to the field.

We’ve been out there from the very beginning to make the case to stop the Olympia income tax, and we’re winning the debate.

In fact, Freedom Foundation economic policy analyst Amber Gunn exposed the income tax con job for what it is in a powerful editorial in *The Olympian*. (Amber’s column is enclosed with this letter.)

As Amber reveals, the campaign to tax incomes in Olympia has grave consequences even for those who do not live in Olympia.

The ultimate goal of the Olympia income taxers is to con enough people in a test city to enact a local income tax. Their hope is that the Washington Supreme Court will then reverse 80 years of precedent and approve the tax, opening the way to a statewide income tax that does not require approval by those pesky voters.

The state Legislature could then pass an income tax on its own—and you can bet the unions would break the bank to buy enough legislators to pass such a tax.

Amber Gunn’s concluding words ought to be pinned to the wall of every decision-maker in our state:



“As Washington residents, we need to protect one of our most precious competitive advantages in tax policy: no income tax. In almost every other category our state is very expensive for business owners and wealth producers. The way we keep the welcome mat out for them is by stopping an income tax.”

You and I understand this truth. Our job is to inform our neighbors and fellow Washingtonians of the wide-ranging and wholly pernicious consequences of an income tax—first in Olympia, and then across our state.

The comments from readers on Amber’s hard-hitting article were enlightening.

- “Government never has enough money.”
- “Modern-day voters in Washington understand that all these liberal Democrats want to do is take our \$\$\$\$. Once they pass a tax like this it seems to get a life of its own. It will expand into other households and start to grow and grow and grow.”
- “I can say with great certainty that if they pass this, my family will move out of Olympia after being residents for over 25 years.”

The real agenda here, as one astute commenter noted, is a statewide income tax.

We’re getting that message out, and we’re winning the debate.

In fact, in the wake of Amber’s *Olympian* editorial and our efforts to mobilize conservatives in the area, the Olympia City Council voted to oppose the tax and sue to keep it off the ballot if necessary.

That’s a huge battle to have won.

But the war is far from over—we all know that the liberals have a friend in our unaccountable judges, and we have to keep up the fight.

For our part, we will keep educating the public about this crucial issue—and if it does pass in November, **we have the state’s largest and most effective team of conservative lawyers standing ready on our staff to continue the fight as long as needed.**

Don’t believe for one second the crooked liberals who claim that any statewide income tax would be targeted only at those with incomes above \$200,000. **It will be voracious and omnivorous.**

**I said it before, and I'll say it again: don't feed the bear!**

Let's be frank. The unions and the political hacks whose elections they subsidize don't care if hard-working citizens are punished by an income tax—just as long as the proceeds of that tax fill the coffers of the unions and help to re-elect the hacks.

They prey on people like our friends and neighbors, using the loot to feather the nests of privileged union bosses and keep themselves in power. For the less fortunate in our communities who need every penny from their paycheck to climb their way out of poverty, an injustice like this can mean the difference between making ends meet and going hungry, homeless or worse.

We just can't let that happen—we have to stand up for our neighbors and our communities, and defeat the income tax and the powerful forces behind it.

It's no surprise the biggest bankrollers of the Olympia income tax are a Seattle Big Government liberal and the teachers' union.

The forces of the unquenchable state have designs on *your* money and *your* liberties. They think they've hit upon the winning strategy.

You see, the Olympia income tax is a Trojan Horse. How do we know this? Because we're seeing the same strategy play out in a related issue.

The unions and their statist allies are following the same cynical game plan as they did in pushing the job-killing minimum wage hike.

Once they got their way in SeaTac—thereby removing the traditional first rung of the ladder of success and condemning untold thousands of inexperienced SeaTac workers to idleness and the dole—they set their sights on killing jobs at the statewide level.

And that's where we find ourselves in 2016. In fact, voters in Washington may face on this November's ballot a union-backed initiative raising the minimum wage in every region, every town, every corner and on every job in the state.

I can guarantee that if a statewide minimum wage of as much as \$15 an hour passes, Washington's unemployment rate will begin an inexorable rise. Restaurants will close. Automation will replace workers.

**It will be a disaster.**

Liberal activists are following the same script with the income tax.

If Olympia adopts an income tax, goes the thinking of the unions and their allies, then the rest of the state will follow.

Imagine that: Every April 15, you can write out *two* checks: one to the IRS, and the other to the state of Washington's mini-IRS.

**We cannot let this happen.**

And with your continued help, we won't. We can stop this monstrosity known as a state income tax.

The effect of a state income tax on Washington's economy—not to mention the basic unfairness of taxing work and success—would be devastating.

It's easy to see where this is leading if it is not stopped now. Income tax supporters seem to want to turn Washington into a Pacific Northwest replica of Washington, D.C.

They won't if we—you and I and the patriots of the Freedom Foundation—have anything to say about it.

**And we do.**

The Freedom Foundation has stepped up to lead the fight. We are rallying Olympia Freedom Foundation members, and we've persuaded the City Council to oppose this awful tax. And we will keep exposing the abuse of union members who have been required to fund this injustice, and working to free those employees from the unions' grip. And we will be scrutinizing the electioneering effort for violations of the Public Disclosure Act.

I can promise you this: On the day this ballot measure is approved—if, that is, the people of Olympia are conned into passing it—the Freedom Foundation will immediately challenge its constitutionality in court.

The Freedom Foundation is the major barrier standing between you and a statewide income tax. And we will never—**never**—back down.

Politicians like to say they the people are behind them. But the liberals could have learned something from the comments after another *Olympian* article on the subject:

- “These people should take their political experiments back to Seattle.”
- “It’s a tax that punishes success.”
- “This is a priority? Meanwhile the town is taken over by drug dealers, professional panhandlers, theft, crime. I guess it’s a good distraction from the real issues they refuse to address.”

We at the Freedom Foundation are addressing the real issues in Washington by defending free enterprise and constitutional liberty and fighting the greedy, lawless government unions at every step.

But today we face a new fight.

Your gift today of \$5,000, \$1,000, \$500, \$250, \$100, or whatever you can afford will greatly help the Freedom Foundation as we make our stand against those who would saddle Washington with an income tax.

This is a fight we have to win—and with you on our side, we will.

Sincerely,



Tom McCabe  
CEO

P.S. This latest campaign by the greedy union bosses to turn *your* money into *their* money is beginning in the city of Olympia—but their ultimate goal is to rip off every single worker in Washington with an income tax. We have to stop this in its tracks.

P.P.S. Your donation today can prevent a statewide income tax tomorrow. Please give as generously as you can. We will fight the imposition of an income tax tooth and nail—and with you on our team, we will prevail.

**FREEDOM**  
FOUNDATION



We have the plan... we have the tenacity...  
and trust me, we have the firepower...

...TO FREE WASHINGTON STATE  
FROM THE GRIP OF  
**GOVERNMENT  
UNION TYRANNY!**

Please join Freedom Foundation's campaign  
to bring the Pacific Northwest back from its  
hardcore radical politics!



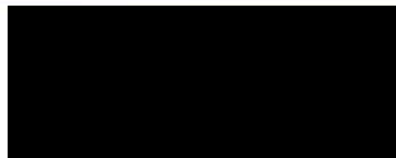
Tom McCabe,  
CEO of the Freedom Foundation

Enclosed is my gift of

**\$100   \$250   \$500   \$1,000   \$5,000   other\_\_\_\_\_**

**to help the Freedom Foundation at this critical time!**

**YES, Tom, I want you to continue the fight!**



Your gift is tax deductible.

**PAYMENT METHOD**

Check Enclosed

Credit/Debit Card



CC # \_\_\_\_\_ Exp. Date \_\_\_\_\_

**CHECKING WITHDRAWAL OR CREDIT/DEBIT CARD DONATION AUTHORIZATION:**

I authorize my bank/credit card company to make payment(s) as indicated. I understand I am in full control of my donation, and can make changes by calling or writing the Freedom Foundation.

Signature \_\_\_\_\_ Date \_\_\_\_\_

*Required for checking withdrawal or credit/debit card donations*

Please complete payment information and mail to: **Freedom Foundation - PO Box 552, Olympia, WA 98507**





## OLYMPIA INCOME TAX WOULD

# OPEN PANDORA'S BOX

BY AMBER GUNN

Special to *The Olympian*

An income tax test case is brewing in the city of Olympia. On the heels of what many agree is a flawed local income tax petition, the Olympia City Council is drafting its own ordinance to become the first city in Washington to impose an income tax.

The original income tax petition, backed by the Economic Opportunity Institute, would exact a 1.5 percent tax on household income in excess of \$200,000 and dedicate the revenue to funding one year of higher education for college-bound Olympia residents.

Multiple inconsistencies and flaws have prompted Olympia's City Council to pursue its own income tax



AMBER GUNN

proposal—one some believe will pass the inevitable legal challenge. The council's proposal would place a graduated income tax on all households, rather than just those making more than \$200,000.

While a broader tax base would potentially mitigate tax revenue volatility, it would

not address the problem of taxpayer migration. In Thurston County, some of the wealthiest households live just outside Olympia's city limits. Nothing would prevent the city's high earners from joining them.

By proposing its own amended ordinance, the City Council is sending voters the message that a city income tax is feasible, practical and by implication legal. If the council manages to swindle voters into believing that the hefty expenses to implement and enforce a new tax, which the city is totally unequipped to collect, are trivial, only Washington's Constitution and eight decades of legal precedent would stand in the way.

Olympia is a handpicked test case by income tax

backers. City voters supported a 2010 state income tax initiative that failed statewide. Since extensive statewide strategies have repeatedly flopped, this is the first narrow, concentrated attempt to pass a local income tax—purposely provoking a legal challenge that advocates hope will reach the state Supreme Court, which would then overturn decades of precedent and

pave the way for a statewide income tax without a constitutional amendment.

Win or lose, such a legal showdown would leave Olympia's taxpayers footing the bill. If this proposal were truly about paying for higher education

for local residents, supporters would have done what every other municipality does when it wants something—pass a new property or other tax levy, or advocate for a shift in current priorities.

In the end, this proposal is not really about Olympia. This is the classic “lipstick on a pig” scheme to advance the long-term goal of fundamentally changing Washington's tax structure at the expense of the integrity of our state Constitution.

As Washington residents, we need to protect one of our most precious competitive advantages in tax policy: no income tax. In almost every other category our state is very expensive for business owners and wealth producers. The way we keep the welcome mat out for them is by stopping an income tax.

*This is the classic “lipstick on a pig” scheme to advance the long-term goal of fundamentally changing Washington's tax structure at the expense of the integrity of our state Constitution.*





# Attachment 2

Email Urging Opposition to Initiative 1

Email Sent to [REDACTED]

On Mon, Jul 11, 2016 at 4:05 PM, Jami Lund <[JLund@myfreedomfoundation.com](mailto:JLund@myfreedomfoundation.com)> wrote:

Hello [REDACTED]

Perhaps you have heard that the City of Olympia has been targeted by the union-backed “Economic Opportunity Institute” of Seattle for an experiment to impose a city income tax.

On Friday the activists turned in the signatures to get a city income tax initiative on the November ballot if allowed by the council.

Freedom Foundation has fought on behalf taxpayers for twenty five years, and this scheme is no exception. Not surprisingly, government unions play a key role in this plan to plunder some Olympia citizens to fund public higher education institutions.

Freedom Foundation policy fellow, Amber Gunn, penned an opinion editorial expressing concerns in the Olympian newspaper. The Freedom Foundation is working to educate people about the injustice of unconstitutional selective income harvesting.

But Olympia residents need to make their voice heard, and now is the time. Before this Tuesday, July 12th city council meeting, please contact all city council members regarding this unconstitutional income tax initiative.

**Reach them all at once at: [citycouncil@ci.olympia.wa.us](mailto:citycouncil@ci.olympia.wa.us)**

Will you send a note to the city council expressing your thoughts about forcing a minority of citizens in Olympia to fund the public college tuition of others?

I am also looking for several to join me at the hearing. Please reply if you would consider lending support on Tuesday evening at 7:00. You can bet that the other side is going to be there.

**Jami Lund**

Senior Policy Analyst | Freedom Foundation

[JLund@myFreedomFoundation.com](mailto:JLund@myFreedomFoundation.com)

[360.956.3482](tel:360.956.3482) | PO Box 552 Olympia, WA 98507

[myFreedomFoundation.com](http://myFreedomFoundation.com)

Sent to [REDACTED] because of your interest in the Freedom Foundation's mission of individual liberty, free enterprise and limited, accountable government. Let me know if your preferences about receiving messages like this have changed.

# Attachment 3

# Olympia Income Tax

Like 1

July 14, 2016

Jami Lund *Senior Policy Analyst*

Olympia has become the test tube in which Leftist social engineers are conducting their latest experiment.

The union backed "Economic Opportunity Institute" of Seattle was tasked with finding a test case for a statewide income tax and, on July 8, paid canvassers turned in enough signatures to place a city income tax initiative on Olympia's November ballot if approved by the council.

The Freedom Foundation has fought on behalf of taxpayers for 25 years, and this scheme is no exception. Not surprisingly, government unions play a key role in this plan to plunder a handful of Olympia residents to fund public higher education institutions.

Last month, Freedom Foundation policy fellow Amber Gunn authored an opinion editorial for *The Olympian* newspaper expressing concerns. The Freedom Foundation is working to educate people about the injustice of unconstitutional selective income harvesting.

Among the many problems with the proposal are these three:

## **First, this policy is unfair and immoral.**

In its simplest terms, the measure requires the city to send police to take money from some residents and give it to others.

If the designated taxpayers acquired their wealth through unjust methods, say by fraud or theft, then by all means let the force of law be brought to bear. But that's not what is happening here. Instead, those who authored and signed the petition simply believe that those who have more than they do deserve to be punished by having a portion of their wealth confiscated and redistributed to others.

As with most utopian schemes crafted by those who believe government can control human motives and action, this proposal will have negative impacts.

Will targeted taxation motivate the unwelcome to leave? Will free resources encourage irresponsibility in training choices and inflation of the costs of college? Will the government effort to penalizing earning create a greater appetite to grow government programs of this sort? Will injustice be multiplied by flawed

implementation of the city's attempt to decide who owes taxes and why?

**Second, it is not a function of city government to create higher education programs.**

Cities have clear responsibilities they already struggle to meet within existing revenues infrastructure, public safety, land use, etc.

This proposal obligates the city to create a higher education program that has a number of problems:

1. It duplicates state and federal programs regarding higher education and financial assistance
2. It unfairly discriminates against *private* higher education and training opportunities like the six private vocational training programs in Olympia itself.
3. It decides for city residents that college is "good" and refuses to fund other life preparation or self sufficiency opportunities. For example, a young woman who wants to open a hair salon after getting a license at the New Market Skills Center is *charged a fee* by the city, but a young woman who wants to spend time at college with an undeclared major gets paid.
4. It lacks any meaningful accountability to make sure a public interest is accomplished with the money spent. What if students drop out? Will their chosen studies actually result in self sufficiency? What if they are fully funded through other financial aid programs?

The city of Olympia has a clear scope of responsibility, and funding state institutions of higher education is not one of them.

**Third, the initiative is unconstitutional.**

Freedom Foundation attorneys are examining this proposal, and we take our defense of liberty and taxpayers seriously.

In an unbroken string of rulings, income taxes have been struck down by the state Supreme Court as a tax on property in violation of other parts of the state constitution (Article 7 section 1 and 2)

Likewise, the state and federal Constitutions require that taxation be uniform. An arbitrary tax on the property of some of the residents of Olympia violates the state Constitution (Article 1 section 12 equal application of laws) and likely the U.S. Constitution (14th Amendment equal protection), as well.

**A bad precedent**

Why would King County socialism activists invest \$50,000 in a small town initiative to implement these policies?

Perhaps to lay the groundwork for a test case on the constitutionality of an income tax now that the

Washington State Supreme Court seems much more attentive to the interests of government unions.

Perhaps because the news coverage from the state's capitol would help normalize this extreme idea of plundering the few for the benefit of some others.

Perhaps because other cities will, like dominoes falling, get their turn to embrace this radical departure from equal protection of the laws. The precedent was already established with the SeaTac minimum wage initiative.

### **Next steps**

The city of Olympia has heard from Freedom Foundation experts and several local Freedom Foundation members. The city council was planning to introduce an "improved" version of the income tax, but now *The Olympian* reports that it is planning to seek a court ruling that the initiative is unlawful to keep it off the ballot.

This effort makes the importance of local elections and local activism very clear. The Freedom Foundation is fundamentally a grassroots organization, and remains committed to local action. *Local* change and leadership is necessary to turn the tide of Washington away from a culture of individual oppression, government managed economies and big, unaccountable government.

*Testimony begins at 39:10*





# Attachment 4

# Press Release: Freedom Foundation Files Brief Addressing Constitutionality Of Proposed Olympia Income Tax

Like 0

August 11, 2016

Jeff Rhodes *Managing Editor*

**OLYMPIA, Wash.** — The Freedom Foundation on Tuesday filed an amicus curiae ("friend of the court") brief in support of a lawsuit filed by the city of Olympia against the campaign supporting a ballot initiative that would impose the state's only income tax on local residents.

The initiative, which qualified last month for a spot on the November general election ballot, would tax only residents earning more than \$200,000 to fund college scholarships for needy Olympia students. But the measure's regressive nature puts it at odds with both the Washington State Constitution and several court cases.

"The state constitution is unequivocal — an income tax can't treat people differently such as when a tax kicks in at a certain income level," said Freedom Foundation Managing Attorney Greg Overstreet. "We were concerned that neither the city nor campaign presented legal analysis to the court on the constitutional issues, so we filed a brief that offers a constitutional perspective."

The city of Olympia is simply asking the court to issue an order allowing it to not put the local initiative on the ballot because it violates a state law preventing cities from imposing their own income tax.

The Freedom Foundation's brief, however, cites Article VII, Section I of the Washington State Constitution, which states, "... (all) taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax."

Further, at least three subsequent court challenges have affirmed that a tax cannot be imposed on one group of Washingtonians but not another.

Overstreet said the authors of the Olympia initiative are using the measure as a test case with an eye toward imposing a statewide tax in the future. But two obstacles stand in their way — the voters and the law.

"People seldom vote to tax themselves," he said, "but they can sometimes be persuaded tax someone else

like 'evil rich people.' A Washington income tax is clearly unconstitutional unless it's a true flat tax on all income, which the proposed Olympia initiative certainly is not."

The case is scheduled to be heard by Judge Mary Sue Wilson in Thurston County Superior Court on Aug. 25.

# Attachment 5

# Olympia City Income Tax Scheme Rejected

Like 0

August 25, 2016

Jami Lund *Senior Policy Analyst*

In a classic example of the importance of local activism, a Socialism experiment funded by Leftists is now unlikely to appear on the general election ballot in Olympia this fall.

The Freedom Foundation has a 25 year history as the state's foremost grassroots taxpayer advocacy organization. When the union funded champions of Socialism, the Economic Opportunity Institute, decided to experiment on Olympians by trying to get one of their pet ideas on the ballot, the Freedom Foundation's citizen activists were key to blocking them.

The Seattle based Economic Opportunity Institute's donors and personnel created an initiative to take money from a few wealthy individuals in Olympia and to give it to government run colleges to cover costs of tuition for Olympia youth.

Freedom Foundation's Amber Gunn wrote an opinion editorial for the Olympian newspaper raising the alarm about this unfair and unconstitutional policy.

Government unions tapped their members to help fund the effort to gather signatures.

Once the petition was offered to the Olympia City Council, however, Freedom Foundation members in the area wrote to their city council, spoke at the hearing and wrote letters to the editor.

City councilmembers, who were tentatively in favor of the opportunity to lead the state in wealth redistribution, ultimately decided instead to ask the court to prevent the proposal from being placed on the ballot.

The Freedom Foundation legal team then filed a brief noting the ways the proposal violated constitutional protections intended to protect taxpayers from this kind of selective persecution. Of course, the union funded campaign has argued "(the) Freedom Foundation's amicus brief should be rejected."

On Aug. 24, Thurston County Superior Court ruled the initiative extends beyond the city's powers and conflicts with the state law that bans income taxes, and will prevent it from appearing on the ballot.

Of course, the income tax advocates will seek an emergency appeal, but the likelihood of success is waning.

The Freedom Foundation members' action coupled with our great legal team has demonstrated that local activism works even in Olympia, a city considerably to the Left of most of Washington.

Related:

[Olympia Income Tax?](#)

[Freedom Weekly Radio: Potential Lawsuit If Olympia Income Tax Passes](#)

[Freedom Weekly Radio: Proposed Income Tax in Olympia](#)

[Press Release: Freedom Foundation Files Brief Addressing Constitutionality Of Proposed Olympia Income Tax](#)

# Attachment 6

# Freedom Weekly: Washington May 7, 2016 - Proposed Income Tax in Olympia

Like 0

May 7, 2016

Jeff Rhodes *Managing Editor*

Managing editor Jeff Rhodes discusses Olympia’s proposed income tax with Economic Policy Fellow Amber Gunn and reviews a U.S. Supreme Court ruling about Seattle’s minimum wage law with retired Washington State Supreme Court Justice Jim Johnson.

**Listen to the show:**





# Attachment 7

# Freedom Weekly: Washington May 21, 2016 - Freedom Foundation Wins Another Lawsuit

Like 0

May 21, 2016

Jeff Rhodes *Managing Editor*

Managing editor Jeff Rhodes and retired Washington State Supreme Court Justice Jim Johnson discuss the legal and constitutional implications of Olympia's proposed income tax ballot initiative, and General Counsel James Abernathy talks about a major win last week in Superior Court for the Freedom Foundation, as well as a new lawsuit filed this week in federal court.

**Listen to the show:**



# Attachment 8

# Freedom Weekly: Washington July 16, 2016 - Potential Lawsuit If Olympia Income Tax Passes

Like 0

July 16, 2016

Jeff Rhodes *Managing Editor*

Managing editor Jeff Rhodes and senior policy analyst Jami Lund discuss his appearance at an Olympia City Council meeting this week, informing the members that the Freedom Foundation would consider filing a lawsuit over a ballot measure that would impose a city income tax.

**Listen to the show:**



# Attachment 9



# ELECTION NIGHT

BIG LABOR Poured MILLIONS INTO WASHINGTON, OREGON RACES ... AND EVEN ITS SIGNATURE

## WASHINGTON CONTINUES TO REJECT TAXES IT'S ACTUALLY INFORMED OF

**W**hile the national election results produced gains for the cause of limited, accountable government, the state election leaves Washington as stagnated as before.

Which is far from the worst outcome if you count yourself among those suspicious of government's scope and dismissive of its ability to improve anyone's situation.

The Washington State Senate remains in a narrow Republican control, while the Democrats' control of the House of Representatives is just as tenuous.

Statewide officials are primarily Democrat with the exception being the Republicans adding Treasurer Duane Davidson to incumbent Secretary of State Kim Wyman.

While the makeup of the state Legislature and statewide offices changed very little this year, millions of union-confiscated dollars were required to prop up politicians who never could have generated that kind of money relying on voluntary donors.

Meanwhile, the Washington State Supreme Court has grown so political that it now offers union-written rulings on demand along with attempts to



By **JAMI LUND**,  
Senior Policy Analyst

As the state's most active taxpayer advocate, the Freedom Foundation is heartened by these results.

SEIU 775 in effect bought a law giving the union – and only the union – the right to communicate with unionized home healthcare and childcare providers. The price tag of this law was \$1.8 million in reported expenditures.

Freedom Foundation will be taking action to strike down this law. The initiative has three serious legal flaws that will be the basis of our lawsuit:

- I-1501 is a textbook abuse of the “single-subject” rule. The



encroach on legislative responsibilities.

This year, serious challengers attempted to unseat the three incumbents.

After tens of thousands of unions dollars were spent, the incumbents remain on the court.

Leftist forces are attempting to break down our current tax system so they can use taxes as a weapon to “even the score” by targeted redistribution.

Yet despite enthusiastic support for candidates and causes who make no secret of their desire to wield such a weapon, Washingtonians once again showed they had no interest in raising taxes – even those imposed on someone else.

Initiative 1464, for example, was a campaign finance measure that would have eliminated the sales tax exemption for out-of-state purchasers of Washington good.

It was handily defeated.

Likewise, Initiative 732 – which would have imposed a carbon tax on those the governor wishes to punish for pushing back at his radical environmental agenda – was inexplicably sent to the voters with the word “tax” in the title, and it received the lowest number of votes of all the measures.

The two “advisory votes” allow the public gets to pass symbolic judgment on the tax- or revenue-increasing actions of the Legislature.

Sixty to 70 percent of citizens rendered a “repeal” advisory opinion.

In liberal Olympia, a community known for its addiction to big government, was unwilling to pass an income tax measure even after the court helped obscure the measure’s true intent.

The initiative would have taxed residents whose income exceeded \$200,000 a year and used the revenue to fund college scholarships for needy students.

Even Olympia residents recognized it was nothing but a wealth-redistribution scheme hatched by the Economic Opportunity Institute, a labor-funded group from Seattle, whose goal was a create a test case they could take to the union-owned Supreme Court in hopes it would declare a state income tax legal.

When campaign officials feared Washington residents would resist any suggestion of an income tax – as they have done on countless occasions in the state’s history – a Thurston County judge obligingly removed any references to taxes from the title of the city initiative, henceforth known as “Proposition 1.”

And yet the measure was defeated with a 55 percent no vote in spite of a \$239,000 campaign (\$23 per “yes” vote).

The Freedom Foundation published concerns in The Olympian, testified with members in opposition and threatened to sue if the initiative was passed by voters. Fortunately, it was not.

measure lures voters in by promising to do one thing – protect seniors – but its true intent is something entirely different – protecting SEIU. This sort of bait-and-switch is the whole reason the single-subject rule was adopted in the first place.

• I-1501 violates the First Amendment because the Freedom Foundation’s outreach to union members is political speech and 1501 was passed specifically to prevent that speech.

• It also violates the Equal Protection clause of the U.S. Constitution because it allows the unions to obtain the lists (and can speak to union members) while no one else can.

The bad news for the unions, however, is that while they were wasting millions trying to trick voters into keeping 40,000 Washington workers in the dark about their constitutional rights, Donald Trump was unexpectedly defeating Hillary Clinton for the presidency.

An outspoken supporter of right-to-work laws, Trump will now be the one to put forth a nominee for the U.S. Supreme Court to replace Antonin Scalia, who died last spring just weeks after hearing a case that would have allowed every government employee to decide whether or not to pay union dues or fees.

There are several similar cases in the pipeline the newly reconfigured court could consider. Or even more directly, with GOP majorities in both houses of Congress and a Republican in the White House, a national right-to-work law could be passed with minimal effort.

All in all, Election Night 2016 saw a handful of small victories for the unions – most of which can be effectively blunted by the one huge election defeat no one saw coming.



# Attachment 10



LOCAL

AUGUST 20, 2016 12:06 PM

# Olympia tax proposal's college tuition fund echoes Kalamazoo Promise



BY ANDY HOBBS

[ahobbs@theolympian.com](mailto:ahobbs@theolympian.com)

A controversial proposal to establish an income tax in Olympia will go before a judge Wednesday to determine whether the initiative is legally valid for the November election — or any election, for that matter.

A Thurston County Superior Court hearing has been scheduled with representatives from the city and Opportunity for Olympia, a group that collected thousands of signatures from local residents who support the ballot initiative, which is unprecedented in Washington.

The proposal calls for a 1.5 percent tax on Olympia households with income that exceeds \$200,000 to raise about \$3 million a year for a public college tuition fund. If it passes and is considered valid, voters would create the first local income tax in a state that has long prohibited an income tax.

City officials say the initiative is flawed and cannot survive an inevitable legal challenge. However, the Olympia City Council is bound by law to send the initiative to voters following certification of signatures by the county.

The council, which tried unsuccessfully to pursue an alternative to the initiative, has now forced a court battle to determine whether the city has the constitutional power to tax residents.

City Attorney Mark Barber told The Olympian that he “would not be surprised” if the judge delivered a decision from the bench after hearing both sides’ arguments.

The public debate over the initiative focuses on two points: Should Olympia lead an experiment that challenges the state’s regressive tax system — where lower-income people pay a larger share of taxes than their wealthier counterparts — and should the city play a role in helping students cover the cost of higher education?

According to the initiative, every public high school graduate or GED recipient living in Olympia city limits would be eligible for financial assistance that would cover the first year of tuition at any community college or an equivalent amount at any public university in Washington.

Larry Mosqueda, a retired political economy professor at The Evergreen State College, refers to the initiative’s education component as an important social investment for the city. He echoed a report by the Census Bureau that found people with a bachelor’s degree will earn nearly \$1 million more during a lifetime than those with only a high school diploma.

While the Opportunity for Olympia initiative wouldn’t cover the entire college tuition bill, it can bring more people into an accredited higher education system who might not have done so otherwise, Mosqueda said.

“A better-educated community would be a better tax revenue base,” he said. “The city will be better off in the long run.”

Jami Lund, a senior policy analyst for conservative think tank the Freedom Foundation, said the state already offers plenty of need-based and merit-based grants for college students. A city-run college tuition program would be redundant and falls outside the city's duties, he said.

Lund also said an Olympia college tuition fund fails to consider private college options or even private vocational programs, such as training to earn a commercial driver's license.

"Let's pretend you did adopt an income tax. Is this something you would use it for?" said Lund, noting that city government could have different priorities. "It might be cool, but is it in the city's wheelhouse?"

## **KALAMAZOO PROMISE**

In southwest Michigan, the city of Kalamazoo — population 74,200 — has established one of the more well-known college scholarship funds for local graduates.

The Kalamazoo Promise was launched in 2005 and funded by anonymous donors to provide tuition assistance for graduates of Kalamazoo Public Schools. Students who were continuously enrolled in the district for at least four years of high school can qualify, and the money is good for any public college or university in Michigan.

Beginning with the class of 2015, the Kalamazoo Promise could be applied to private colleges; in this case, the program will cover the equivalent of the tuition and fees at the University of Michigan, the state's most expensive public university.

Those who complete grades nine through 12 are eligible for a grant worth 65 percent of tuition, while those who complete their entire school career in Kalamazoo — from kindergarten through graduation — are eligible for a 100 percent tuition grant.

The program was established in response to declining enrollment in the district. Since its launch in 2005, the Kalamazoo Promise has reversed the trend from a low point of 10,000 students in 2005 to nearly 12,500 students over the following decade, according to a 2015 report by the W.E. Upjohn Institute for Employment Research. Today's numbers are similar to enrollment in the late 1980s.

The program also is credited for a 34 percent increase in students enrolling in a four-year college, according to the report, and a 12 percent increase in students earning a postsecondary credential or degree within six years of high school graduation.

By the end of 2014, the Kalamazoo Promise had paid nearly \$61 million in total scholarships since the program began, spending an average of about \$4,000 per student per semester.

“The Kalamazoo community and (school district) have used the Promise to encourage a more college-going culture among parents and students,” according to the report. “As one might expect, ‘free’ college is insufficient by itself to ensure higher skill levels through postsecondary education. Other policies prior to age 18 are likely needed to improve outcomes for more students.”

The report concludes: “Simple and generous scholarship programs have the potential of being a cost-effective component of the policy toolbox to increase the educational attainment of American students.”

## **STATE COLLEGE TUITION**

The estimated tuition and fees for large schools, such as University of Washington and Washington State University, is about \$10,000 a year, according to the Washington Student Achievement Council. Smaller four-year schools, such as The Evergreen State College and Western Washington University, average about \$6,500 a year, while community and technical colleges average about \$3,850.

The state Education Research and Data Center reports about 110,000 Washington undergraduate students in 2012 — almost 1 in 3 students — received a need-based Pell Grant, a federal subsidy that does not require repayment. That marks a 56 percent increase from 2009.

The center also reports that about 46 percent of all the state’s undergraduate students received some sort of grant in 2012, with the average at \$8,550.

Washington also provides State Need Grants and College Bound Scholarships based on a family’s income level. The Washington State Institute for Public Policy evaluated the effectiveness of the State Need Grant Program, which served about 74,000 students in 2012 with a total expenditure of about \$303 million.

“We find that for students with the lowest family incomes, receipt of State Need Grants is associated with higher re-enrollment and completion rates,” according to the report.

But the report noted that about 32,400 students who were eligible for the grant in 2012 did not receive it because of lack of funding.

2015

# The Effects of the Kalamazoo Promise Scholarship on College Enrollment, Persistence, and Completion

Timothy J. Bartik  
W.E. Upjohn Institute, bartik@upjohn.org

Brad J. Hershbein  
W.E. Upjohn Institute, hershbein@upjohn.org

Marta Lachowska

Kalamazoo Promise by Andy Hobbs, on Scribd

*Andy Hobbs: 360-704-6869*

---

## RELATED CONTENT

- Petition calls for taxing Olympia’s wealthiest households to create college fund
  - Will a tax on Olympia’s richest households hold up in court?
  - Olympia council responds to local income tax plan with its own
  - City of Olympia tries to block income tax proposal from Nov. ballot
  - City of Olympia will fight local income tax petition
- 



## MORE LOCAL

---

### YOU MAY LIKE

Sponsored Links by Taboola

**The Cameraman Got The Shot, Just Not What He Expected...**

History Locker

### What This Guy Transformed His Backyard Into is Actually Genius (Pics)

BuzzViralPro

### (1) "Shocking" Truth About Neuropathy Nerve Pain (Read Today)

NerveRenew Supplement Subscription

### Beyoncé, Jay Z outshine athletes at Game 6

SportsChatter

## COMMENTS

1 Comment

Sort by Oldest



Add a comment...



#### Spike LJ Blutarski

The difference is that Kalamazoo was funded by anonymous donors and Olympia is a tax. There are plenty of merit and need based scholarships available to all. A college education is not a right, it is a privelege, meant to be earned, not 'given'.

Like · Reply · Aug 22, 2016 8:24am

Facebook Comments Plugin

# Attachment 11

# Olympia income tax would open Pandora's box



Advocates have filed an initiative to impose a legally questionable city-only income tax  
Members of the Olympia City Council are also drafting their own ordinance

The measure could drive wealthy households to move out of the city

BY AMBER GUNN *Special to The Olympian*

An income tax test case is brewing in the city of Olympia. On the heels of what many agree is a flawed local income tax petition, the Olympia City Council is drafting its own ordinance to become the first city in Washington to impose an income tax.

The original income tax petition, backed by the Economic Opportunity Institute, would exact a 1.5 percent tax on household income in excess of \$200,000 and dedicate the revenue to funding one year of higher education for college-bound Olympia residents.

Multiple inconsistencies and flaws have prompted Olympia's City Council to pursue its own income tax proposal — one some believe will pass the inevitable legal challenge. The council's proposal would place a graduated income tax on all households, rather than just those making more than \$200,000.

While a broader tax base would potentially mitigate tax revenue volatility, it would not address the problem of taxpayer migration. In Thurston County, some of the wealthiest households live just outside Olympia's city limits. Nothing would prevent the city's high earners from joining them.

By proposing its own amended ordinance, the City Council is sending voters the message that a city income tax is feasible, practical and by implication legal. If the council manages to swindle voters into believing that the hefty expenses to implement and enforce a new tax, which the city is totally unequipped to collect, are trivial, only Washington's Constitution and eight decades of legal precedent would stand in the way.

Olympia is a handpicked test case by income tax backers. City voters supported a 2010 state income tax initiative that failed statewide. Since extensive statewide strategies have repeatedly flopped, this is the first narrow, concentrated attempt to pass a local income tax — purposely provoking a legal challenge that advocates hope will reach the state Supreme Court, which would then overturn decades of precedent and pave the way for a statewide income tax without a constitutional amendment.

Win or lose, such a legal showdown would leave Olympia's taxpayers footing the bill. If this proposal were truly about paying for higher education for local residents, supporters would have done what every other municipality does when it wants something — pass a new property or other tax levy, or advocate for a shift in current priorities.

In the end, this proposal is not really about Olympia. This is the classic "lipstick on a pig" scheme to advance the long-term goal of fundamentally changing Washington's tax structure at the expense of the integrity of our state Constitution.

As Washington residents, we need to protect one of our most precious competitive advantages in tax policy: no income tax. In almost every other category our state is very expensive for business owners and wealth producers. The way we keep the welcome mat out for them is by stopping an income tax.

*Amber Gunn is an economic policy fellow with the Freedom Foundation, an Olympia-based free market think tank.*



# Attachment 12



**FW: Confusing news account**



Thu, Sep 1, 2016 at 1:00 PM

On 8/10/16, 4:19 PM, "Mark Barber" <MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@ci.olympia.wa.us on behalf of mbarber@ci.olympia.wa.us> wrote:

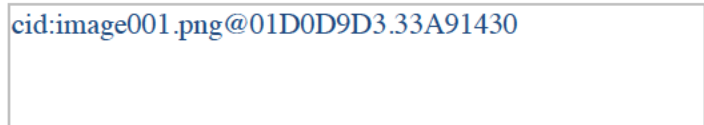
Sender: [mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)  
Subject: RE: Confusing news account  
Message-Id: <619F147E2B832F40BEA0EF50661BD7CA2B9C0C82@Exchange2010.olympia.wa.us>  
To: [GOverstreet@myfreedomfoundation.com](mailto:GOverstreet@myfreedomfoundation.com)

----- Forwarded message -----  
From: Mark Barber <[mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)>  
To: Greg Overstreet <[GOverstreet@myfreedomfoundation.com](mailto:GOverstreet@myfreedomfoundation.com)>  
Cc:  
Date: Wed, 10 Aug 2016 16:19:48 -0700  
Subject: RE: Confusing news account

Greg,

The parties have received confirmation that this matter has been reassigned to Judge Mary Sue Wilson, who will conduct the hearing on August 25 at 3:30 pm.

Mark Barber, City Attorney  
City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967  
Direct Line: (360) 753-8223  
Email: [mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)



**WARNING:** Be advised the City of Olympia is required to comply with the Public Records Act as set forth in RCW Chapter 42.56. This Act establishes a strong state policy in favor of disclosure of public records. The information you submit to the City of Olympia by e-mail, including personal information, may ultimately be subject to disclosure as a public record.

---

**From:** Greg Overstreet [mailto:[GOverstreet@myfreedomfoundation.com](mailto:GOverstreet@myfreedomfoundation.com)]  
**Sent:** Wednesday, August 10, 2016 3:40 PM  
**To:** Mark Barber  
**Subject:** RE: Confusing news account

Thanks, Mark. I appreciate it.

---

**From:** Mark Barber [mailto:[mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)]  
**Sent:** Wednesday, August 10, 2016 2:34 PM  
**To:** Greg Overstreet <[GOverstreet@myfreedomfoundation.com](mailto:GOverstreet@myfreedomfoundation.com)>  
**Subject:** RE: Confusing news account

Greg,

I neglected to inform you that the court advised the parties this morning that the court had a conflict with the scheduled hearing on August 17 at 3:30 pm. The parties responded and advised the judicial assistant that Thursday, August 25 at 3:30 pm was acceptable. We have not received confirmation of the new date/time from the judicial assistant.

As an explanation, I added the service information related to the Attorney General because Opportunity for Olympia is alleging that RCW 36.65.030 is unconstitutional and the defendants have so advised the AG's Office.

Mark Barber, City Attorney

City of Olympia

PO Box 1967

Olympia, WA 98507-1967

Direct Line: (360) 753-8223

Email: [mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)

cid:image001.png@01D0D9D3.33A91430

**WARNING: Be advised the City of Olympia is required to comply with the Public Records Act as set forth in RCW Chapter 42.56. This Act establishes a strong state policy in favor of disclosure of public records. The information you submit to the City of Olympia by e-mail, including**

personal information, may ultimately be subject to disclosure as a public record.

---

**From:** Greg Overstreet [<mailto:GOverstreet@myfreedomfoundation.com>]  
**Sent:** Wednesday, August 10, 2016 2:15 PM  
**To:** Mark Barber  
**Subject:** RE: Confusing news account

Thanks, Mark.

---

**From:** Mark Barber [<mailto:mbarber@ci.olympia.wa.us>]  
**Sent:** Wednesday, August 10, 2016 2:10 PM  
**To:** Greg Overstreet <[GOverstreet@myfreedomfoundation.com](mailto:GOverstreet@myfreedomfoundation.com)>  
**Subject:** RE: Confusing news account

Greg,

The lawyers and parties are as follows:

For the City of Olympia

-

P. Stephen (Steve) DiJulio, WSBA #7139

Jason R. Donovan, WSBA #40994  
Foster Pepper, PLLC  
1111 Third Avenue, Suite 3000  
Seattle, WA 98101

[steve.dijulio@foster.com](mailto:steve.dijulio@foster.com)

[j.donovan@foster.com](mailto:j.donovan@foster.com)

Tel: 206-447-8971

Fax: 206-749-1927

Mark Barber, City Attorney, WSBA #8379

Annaliese Harksen, Deputy City Attorney, WSBA #31132

City of Olympia

601 4th Avenue East

P.O. Box 1967

Olympia, WA 98507

[mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)

[aharsen@ci.olympia.wa.us](mailto:aharsen@ci.olympia.wa.us)

Tel : 360-753-8223

For Opportunity for Olympia, Ray Guerra and Danielle Westbrook

-

Knoll Lowney, WSBA #23457

Claire Tonry, WSBA #44497

Smith & Lowney PLLC

2317 East John Street

Seattle, WA 98112

[knoll@iqc.org](mailto:knoll@iqc.org)

[clairet@iqc.org](mailto:clairet@iqc.org)

Telephone: 206-860-2883

For Thurston County and Mary Hall, Auditor

-

Elizabeth Petrich, WSBA #18713

Chief Civil Deputy Prosecuting Attorney

Thurston County Prosecuting Attorney

Civil Division - Building No. 5

2000 Lakeridge Drive SW

Olympia, V/A 98502

[petrice@co.thurston.wa.us](mailto:petrice@co.thurston.wa.us)

Telephone: 360-786-5540

For the State of Washington and Attorney General

-

Office of the Attorney General

PO Box 40100  
Olympia, WA 98504-0100  
Telephone: (360) 664-9083

-

Mark Barber, City Attorney  
City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967  
Direct Line: (360) 753-8223  
Email: [mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)

cid:image001.png@01D0D9D3.33A91430

**WARNING:** Be advised the City of Olympia is required to comply with the Public Records Act as set forth in RCW Chapter 42.56. This Act establishes a strong state policy in favor of disclosure of public records. The information you submit to the City of Olympia by e-mail, including personal information, may ultimately be subject to disclosure as a public record.

---

**From:** Greg Overstreet [<mailto:GOverstreet@myfreedomfoundation.com>]  
**Sent:** Wednesday, August 10, 2016 12:06 PM  
**To:** Mark Barber  
**Subject:** FW: Confusing news account

Mark:

I just filed a very short amicus curiae brief in support of the City's position in the income tax initiative case. I will not be attending the August 17 hearing or asking for any oral argument time.

I started on the brief yesterday afternoon so I didn't have time to call you first, which is my usual practice.

In any event, could you get me the names of the lawyers in the case other than Lowney. I only had Lowney's brief so use for the declarations of service.

Thanks.

Greg

---

**From:** Mark Barber [<mailto:mbarber@ci.olympia.wa.us>]  
**Sent:** Monday, July 25, 2016 5:11 PM  
**To:** Jami Lund <[JLund@myfreedomfoundation.com](mailto:JLund@myfreedomfoundation.com)>  
**Subject:** RE: Confusing news account

Mr. Lund,

In response to your query, please see attached.

Mark Barber, City Attorney  
City of Olympia  
PO Box 1967  
Olympia, WA 98507-1967  
Direct Line: (360) 753-8223  
Email: [mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)

cid:image001.png@01D0D9D3.33A91430

**WARNING:** Be advised the City of Olympia is required to comply with the Public Records Act as set forth in RCW Chapter 42.56. This Act establishes a strong state policy in favor of disclosure of public records. The information you submit to the City of Olympia by e-mail, including personal information, may ultimately be subject to disclosure as a public record.

---

**From:** Jami Lund [<mailto:JLund@myfreedomfoundation.com>]  
**Sent:** Thursday, July 14, 2016 9:53 AM  
**To:** Mark Barber  
**Subject:** Confusing news account

Hello Mr. Barber,

I just called, but you were in a meeting. As happens on occasion, the news account of the city decision is not clear to me:

“the council authorized the city manager to seek a judicial decision in Thurston County Superior Court to determine whether the initiative is lawful.”

This sounds like the city will be going straight to court without a plaintiff, but I cannot tell. Is this an attempt to get some kind of advisory decision?

I’m not an attorney, but in my experience the city could decline to put something on the ballot and let the proponents bring an action. That would be the quickest, most focused effort since it would be over in a matter of months and appeals could be unlikely.

Is there a simple answer to what the city can do to get a ruling on the legality of the initiative you could email, or should I call at a time convenient for you?

## Jami Lund

Senior Policy Analyst | Freedom Foundation

[JLund@myFreedomFoundation.com](mailto:JLund@myFreedomFoundation.com)

360.956.3482 | PO Box 552 Olympia, WA 98507

[myFreedomFoundation.com](http://myFreedomFoundation.com)

---

### 2 attachments



Legal Department

image001.png  
10K



noname.eml  
72K



# Attachment 13

1  
2  
3  
4  
5

Expedite  
 No hearing set  
 Hearing is set  
Date: Aug. 17, 2016  
Time: 3:30 p.m.  
Judge/Calendar:  
Hon. Anne Hirsch

6  
7

**IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR THURSTON COUNTY**

8

CITY OF OLYMPIA, a Washington municipal corporation,

9

Plaintiff,

10

v.

11  
12  
13

OPPORTUNITY FOR OLYMPIA, a Washington Political Committee; RAY GUERRA; DANIELLE WESTBROOK; THURSTON COUNTY; and MARY HALL, Thurston County Auditor,

14  
15

Defendants.

NO. 16-2-02998-34

**FREEDOM FOUNDATION'S  
MOTION FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF**

16

**I. INTRODUCTION**

17  
18  
19  
20

COMES now the Freedom Foundation (“Foundation”) and seeks leave to file a very short amicus curiae brief in this statutory construction case. “[E]very statute is to be read in the light of the Constitution[.]” *In re Elliot*, 74 Wn.2d 600, 608, 446 P.2d 347 (1968) (citation omitted). The Foundation seeks to provide the Court with the constitutional backdrop to this statutory construction case.

21  
22  
23

The Foundation is not seeking leave to intervene as a party, is not directly challenging the proposed initiative on constitutional grounds, and takes no position on whether the proposed

24

FOUNDATION’S MOTION TO SHORTEN TIME  
NO. 16-2-02998-34

1 initiative should appear on the ballot.<sup>1</sup> Instead, the Foundation is merely providing the Court  
2 with the constitutional backdrop for interpreting one of the statutes at issue: RCW 36.65.030 (a  
3 city “shall not levy a tax on net income.”).

## 4 II. IDENTITY OF MOVANT

5 The Foundation is a 501(c)(3) policy institute in Olympia, Washington. The  
6 Foundation’s mission is to advance individual liberty, free enterprise, and limited, accountable  
7 government. The Foundation provided testimony to the City Council about the proposed local  
8 initiative at issue in this case.

## 9 III. ARGUMENT

10 No court rule governs amicus curiae briefs in Superior Court. A trial court has the  
11 discretion to accept one or not. The Foundation believes more information is better when a court  
12 is making an important decision. Neither party appears to be briefing the constitutional issues  
13 affecting this statutory construction case. The Foundation seeks to present the Court with a very  
14 short analysis of the constitutionality of an income tax in Washington State.

## 15 IV. REQUEST FOR RELIEF

16 The Foundation respectfully requests leave to file the attached proposed amicus curiae  
17 brief.

18  
19  
20  
21  

---

22 <sup>1</sup> In other cases, the Foundation has taken the position that statutorily *valid* local initiatives should be placed on local  
23 ballots. *See Clark v. City of Chelan* (No. 14-2-01095-2) (Chelan County Superior Court), *Good v. City of Shelton*  
24 (No. 14-2-00555-9) (Mason County Superior Court), *Brautigam v. City of Sequim* (No. 14-2-00771-2) (Clallam  
County Superior Court). However, this case is different: The proposed local initiative to implement a city income  
tax is statutorily invalid. *See* RCW 36.65.030 (a city “shall not levy a tax on net income.”). The Foundation’s  
proposed amicus curiae brief does not address the issue of whether the proposed initiative should be placed on the  
ballot.

1 RESPECTFULLY SUBMITTED on August 10, 2016.

2 *Greg Overstreet*

3 Greg Overstreet, WSBA #26682  
4 c/o Freedom Foundation  
5 P.O. Box 552, Olympia, WA 98507  
6 p. 360.956.3482  
7 f. 360.352.1874  
8 goverstreet@myfreedomfoundation.com

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

1 **DECLARATION OF SERVICE**

2 I certify, under penalty of perjury under the laws of the State of Washington, that on  
3 August 10, 2016, I served a copy of this document on all counsel via email at the addresses listed  
4 as follows:

5 P. Stephen DiJulio, WSBA #7139  
6 Jason R. Donovan, WSBA #40994  
7 Foster Pepper, PLLC  
8 1111 Third Avenue, Suite 3000  
9 Seattle, WA 98101-3292  
10 [Steve.dijulio@foster.com](mailto:Steve.dijulio@foster.com)  
11 [j.donovan@foster.com](mailto:j.donovan@foster.com)

Knoll Lowney, WSBA #23457  
Claire Tonry, WSBA #44497  
Smith & Lowney, PLLC  
2317 East John Street  
Seattle, WA 98112  
[knoll@igc.org](mailto:knoll@igc.org)  
[clairret@igc.org](mailto:clairret@igc.org)

12 Mark E. Barber, WSBA #8379  
13 Annaliese Harksen, WSBA #31132  
14 Office of the City Attorney  
15 Olympia City Hall  
16 601 4<sup>th</sup> Avenue East  
17 Olympia, WA 98501  
18 [mbarber@ci.olympia.wa.us](mailto:mbarber@ci.olympia.wa.us)  
19 [aharksen@ci.olympia.wa.us](mailto:aharksen@ci.olympia.wa.us)

*Attorneys for Defendant*  
*Opportunity for Olympia*  
Elizabeth Petrich, WSBA #18713  
Thurston County Prosecuting  
Attorney  
Civil Division, Building No. 5  
2000 Lakeridge Drive SW  
Olympia, WA 98502  
[petrice@co.thurston.wa.us](mailto:petrice@co.thurston.wa.us)

*Attorneys for Plaintiff City of*  
*Olympia*

*Attorney for Defendant Thurston*  
*County*

20 Signed August 10, 2016, at Olympia, Washington.

21   
22 KIRSTEN NELSEN

1  
2  
3  
4  
5

<input type="checkbox"/> Expedite <input type="checkbox"/> No hearing set <input checked="" type="checkbox"/> Hearing is set Date: Aug. 17, 2016 Time: 3:30 p.m. Judge/Calendar: Hon. Anne Hirsch
---

6  
7

**IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR THURSTON COUNTY**

8  
9

CITY OF OLYMPIA, a Washington municipal corporation,

10

Plaintiff,

11

v.

12  
13  
14

OPPORTUNITY FOR OLYMPIA, a Washington Political Committee; RAY GUERRA; DANIELLE WESTBROOK; THURSTON COUNTY; and MARY HALL, Thurston County Auditor,

15

Defendants.

NO. 16-2-02998-34

[proposed] **FREEDOM FOUNDATION'S  
AMICUS CURIAE BRIEF**

16

**I. ARGUMENT**

17

**A. The statute concerning a municipality's authority to levy an income tax must be read in conjunction with the state Constitution.**

18

RCW 36.65.030 provides that a city "shall not levy a tax on net income."

19  
20

"[E]very statute is to be read in the light of the Constitution[.]" *In re Elliot*, 74 Wn.2d 600, 608, 446 P.2d 347 (1968) (citation omitted).

21  
22

**B. The state Constitution prohibits an income tax like the one in the proposed initiative.**

23  
24

The people of the State of Washington have been asked at least six times whether they want a state income tax. The first and only state initiative to pass was in 1932. Shortly after the

[PROPOSED] FOUNDATION'S  
AMICUS CURIAE BRIEF  
No. 16-2-02998-34

1 initiative passed, but before the income tax was assessed, a citizen filed a case to enjoin the  
2 operation of the new income tax. *See Culliton v. Chase*, 174 Wn. 363, 373, 25 P.2d 81 (1933).  
3 The Culliton court considered Article VII, section 1 of the Washington State Constitution which  
4 requires that "[a]ll taxes shall be uniform upon the same class of property within the territorial  
5 limits of the authority levying the tax . . . . The word 'property' as used herein shall mean and  
6 include everything, whether tangible or intangible, subject to ownership." Wn. Const. article VII,  
7 § 1. The Culliton court made clear that "[a]ll laws on any subject whatever, enacted by either the  
8 people or the Legislature, must be governed by the provisions of the Constitution in force at that  
9 time." *Culliton*, 174 Wn. at 373.

10           After establishing that an initiative had to meet constitutional muster like any other  
11 legislation, the Culliton court determined that the comprehensive definition of property used in  
12 the Constitution, which included intangibles, necessarily included income. Once the Court  
13 determined that income was property, it was clear that a progressive taxation scheme did not  
14 comply with the constitutional requirements that property be taxed uniformly. The court struck  
15 down the income tax initiative. *Culliton*, 174 Wash. at 378–79.

16           The Supreme Court revisited the issue a few years later in *Jensen v. Henneford*,  
17 striking down a tax on net income over \$4,000 because it was a property tax which did not  
18 comply with the uniformity requirement. *Id.*, 185 Wn. 209, 216, 53 P.2d 607 (1936). In 1951 the  
19 Supreme Court struck down an income tax on business using the Culliton court reasoning that  
20 income was property which had to be taxed uniformly. *Power, Inc. v. Huntley*, 39 Wn.2d 191,  
21 196–97, 235 P.2d 173 (1951).

22           The Olympia initiative is similar to *Culliton*, *Jensen*, and *Power, Inc.* in that it taxes  
23 only incomes over \$200,000, and is therefore not uniform.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

II. CONCLUSION

Thus, RCW 36.65.030, which provides that a city “shall not levy a tax on net income,” should be interpreted in light of Wn. Const. article VII, § 1 as interpreted in *Culliton, Jensen, and Power, Inc.*

RESPECTFULLY SUBMITTED on August 10, 2016.

Greg Overstreet  
Greg Overstreet, WSBA #26682  
c/o Freedom Foundation  
P.O. Box 552, Olympia, WA 98507  
p. 360.956.3482  
f. 360.352.1874  
goverstreet@myfreedomfoundation.com



1 **DECLARATION OF SERVICE**

2 I certify, under penalty of perjury under the laws of the State of Washington, that on  
3 August 10, 2016, I served a copy of this document on all counsel via email at the addresses listed  
4 as follows:

5 P. Stephen DiJulio, WSBA #7139  
6 Jason R. Donovan, WSBA #40994  
7 Foster Pepper, PLLC  
8 1111 Third Avenue, Suite 3000  
9 Seattle, WA 98101-3292  
10 Steve.dijulio@foster.com  
11 j.donovan@foster.com

Knoll Lowney, WSBA #23457  
Claire Tonry, WSBA #44497  
Smith & Lowney, PLLC  
2317 East John Street  
Seattle, WA 98112  
knoll@igc.org  
clairet@igc.org

12 Mark E. Barber, WSBA #8379  
13 Annaliese Harksen, WSBA #31132  
14 Office of the City Attorney  
15 Olympia City Hall  
16 601 4<sup>th</sup> Avenue East  
17 Olympia, WA 98501  
18 mbarber@ci.olympia.wa.us  
19 aharksen@ci.olympia.wa.us

*Attorneys for Defendant  
Opportunity for Olympia*

Elizabeth Petrich, WSBA #18713  
Thurston County Prosecuting  
Attorney  
Civil Division, Building No. 5  
2000 Lakeridge Drive SW  
Olympia, WA 98502  
petrice@co.thurston.wa.us

*Attorneys for Plaintiff City of  
Olympia*

*Attorney for Defendant Thurston  
County*

20 Signed August 10, 2016, at Olympia, Washington.

21   
22 KIRSTEN NELSEN